

**UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA**

DEUTSCHE BANK NATIONAL TRUST  
COMPANY, as Trustee for the Holders of the  
GSAMP Trust 2005-SEA2,

Case No.: 2:16-cv-00245-GMN-PAL

## ORDER

VS.

THE FOOTHILLS AT SOUTHERN  
HIGHLANDS HOMEOWNERS  
ASSOCIATION, *et al.*,

### Defendants.

## SFR INVESTMENTS POOL 1, LLC,

#### **Counter/Cross-Claimant,**

VS.

DEUTSCHE BANK NATIONAL TRUST  
COMPANY, as Trustee for the Holders of the  
GSAMP Trust 2005-SEA2, *et al.*,

## Counter/Cross-Defendants

On July 27, 2018, the Court granted summary judgment to Plaintiff Deutsche Bank

National Trust Company (“Plaintiff”) because, under *Bourne Valley Court Trust v. Wells Fargo Bank, N.A.*, 832 F.3d 1154 (9th Cir. 2016), the Foothills At Southern Highlands Homeowners Association (“HOA”) “foreclosed under a facially unconstitutional notice scheme” and therefore the “foreclosure sale cannot have extinguished” Plaintiff’s deed of trust on the property. (Order 9:4–6, ECF No. 81). The Ninth Circuit has since held, however, that Nevada’s homeowner’s association foreclosure scheme is not facially unconstitutional because the

1 decision in *Bourne Valley* was based on a construction of Nevada law that the Nevada Supreme  
2 Court has since made clear was incorrect. *See Bank of Am., N.A. v. Arlington W. Twilight*  
3 *Homeowners Ass'n*, 920 F.3d 620, 624 (9th Cir. 2019) (recognizing that *Bourne Valley* "no  
4 longer controls the analysis" in light of *SFR Investments Pool 1, LLC v. Bank of New York*  
5 *Mellon*, 422 P.3d 1248 (Nev. 2018)). Moreover, for orders from this district that relied on  
6 *Bourne Valley Court Trust v. Wells Fargo Bank, N.A.*, 832 F.3d 1154 (9th Cir. 2016), and were  
7 thereafter appealed, the Ninth Circuit recently began reversing and remanding such orders in  
8 light of *Bank of Am., N.A. v. Arlington W. Twilight Homeowners Ass'n*, 920 F.3d 620, 624 (9th  
9 Cir. 2019). *See, e.g., U.S. Bank, N.A. v. SFR Investments Pool 1, LLC*, No. 18-16006, 2019 WL  
10 6817304, at \*1 (9th Cir. Dec. 13, 2019).

11 Accordingly, to preserve judicial resources,

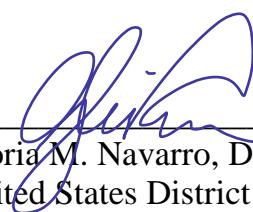
12 **IT IS HEREBY ORDERED** that the Court's prior Order, (ECF No. 81), is  
13 **VACATED**.

14 **IT IS FURTHER ORDERED** that the parties shall have thirty days from the date of  
15 this Order to file renewed dispositive motions.

16 The Clerk of Court shall reopen the case and deliver a copy of this Order to the United  
17 States Court of Appeals for the Ninth Circuit, Appeal Number 18-16619.

19 **DATED** this 18 day of December, 2019.

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Gloria M. Navarro, District Judge  
United States District Court